

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 8051

BILL NUMBER: SB 491

DATE PREPARED: Jan 16, 2001

BILL AMENDED:

SUBJECT: Release of Information and Child Safety.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Limited Criminal History-* This bill specifies that a state or governmental entity may obtain the release from a law enforcement agency of the limited criminal history of an applicant for employment with the entity. It specifies that a school corporation or special education cooperative may, without charge, obtain the limited criminal history of a prospective employee or adult volunteer from the Indiana State Police Department (State Police). It also authorizes a school corporation to adopt a policy under which limited criminal history information will be requested concerning each individual hired.

Student Education Records- It authorizes a school corporation or other entity to which the federal Family Educational and Privacy Rights Act (FERPA) applies to release education records of a child to a juvenile justice agency under certain conditions.

Juvenile Court Records- It allows a child's school superintendent to have access without a court order to juvenile court records concerning a child who attends or is enrolled in the superintendent's school. It also requires a juvenile court to notify a child's superintendent when the juvenile court approves a program of informal adjustment or enters a disposition decree and determines that the child is substantially at risk of committing an act that would be a danger to the child or others.

Effective Date: Upon passage.

Explanation of State Expenditures: *Limited Criminal History-* The provisions in this bill broaden the entities that can request limited criminal history checks. These provisions may require the addition of a PAT III data entry person and computer equipment to process information to the State Police (which operates the Indiana Central Repository for Criminal History Information). Estimated costs would be \$40,068 for FY 2002 and \$39,800 in FY 2003.

The funds and resources above could be supplied through a variety of sources, including the following: (1)

Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff portions, including those positions that would need to be reclassified; (4) Funds that, otherwise would be reverted; or (5) New appropriations. There are currently three PAT III vacancies within the State Police from which a new data entry position could be filled.

Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. Funding for the Indiana State Police originates from the state General Fund and the Motor Vehicle Highway Fund.

The bill also waives the \$7 fee charged for criminal history checks for organizations specified in the bill. This may result in less potential revenue to the General Fund, which is where these fees are deposited.

Explanation of State Revenues: See Explanation of State Expenditures, above, regarding organizations exempted from paying fees for criminal history checks.

Explanation of Local Expenditures: *Student Education Records-* School corporations could experience a minimal increase in administrative expenses regarding the provisions of this bill. Under FERPA, school corporations are not allowed to disclose or report educational records to state or local juvenile justice agencies without parental, guardian, or custodial consent. (However, FERPA permits such disclosure or reporting if a state adopts specific legislation allowing the practice.)

In accordance with this bill, school corporations would be allowed to disclose or report (via FERPA provisions) student education records to juvenile justice agencies without the above consent. School corporations would be permitted to do so, only for the purposes of allowing a juvenile justice agency to serve, before adjudication, a student whose records are being released.

Juvenile justice agencies that request education records from school corporations could experience an increase in administrative expenses regarding the certification to school corporations that education records will not be disclosed to a third party (other than to another juvenile justice agency) without parental, guardian, or custodial consent.

The specific effects of this portion of the bill would vary by county and would depend upon local action.

Juvenile Court Records- Juvenile courts could experience a significant increase in administrative expenses due to this provision of the bill. Likely expenses could include, but are not limited to, the following items: 1) additional hearings; 2) specific reporting requirements; and 3) the possibility of additional staff.

Under current Indiana law, a juvenile court is not required to notify school corporations or other educational entities of action taken by the juvenile court, such as informal adjustments for a child or the adjudication of a child as a child in need of services (CHINS) or as a delinquent. In accordance with this bill, juvenile courts would be required to do so if the court determines that the possibility exists of a child committing a delinquent act which might result in injury to the child or to others.

Although juvenile courts currently report aggregate data to the State regarding action taken by the courts, the additional reporting requirements to school corporations or to other educational entities would represent a significant departure from normal operating procedures. Typically, juvenile courts do not release confidential records of individual juveniles, but would be required to do so with certain reporting criteria

such as special envelopes identified and marked with specific information. School corporations would be allowed to utilize information disclosed to them from the juvenile courts in order to further or develop educational programs to address a child's educational needs.

The specific effects of this portion of the bill are currently indeterminable, would vary by county, and would depend upon the number of juveniles who are processed in the juvenile court system and meet the requirements of this bill. Large counties would likely incur more administrative expenses than would small counties with relatively fewer juveniles brought forth to juvenile courts for litigation.

Background- The total number of juvenile delinquent cases filed in CY 1999 totaled 24,643. For the same year, 7,772 CHINS cases were filed.

Explanation of Local Revenues:

State Agencies Affected: Indiana State Police.

Local Agencies Affected: School Corporations; Special Education Cooperatives; Juvenile Courts.

Information Sources: State Manning Table, Indiana State Police; Division of State Court Administration, *1999 Indiana Judicial Report, Volume II*; Jeff Bercovitz, Indiana Judicial Center, (317) 232-1313.